

## **(A) Reporting Requirements**

INTERNAL DRAFT

**Improving the collection of data in the PA Program as it relates to debris removal and encouraging the use of advance contracts for such services.**

### **Debris Removal Advance Contract Reporting**

1. All eligible applicants, as a condition for eligibility for FEMA public assistance reimbursement, shall annually report to FEMA if they have an advanced contract in effect for debris removal.  
**Is there a reporting platform to submit advanced contract information?**
2. If there is an advanced contract in place, the eligible applicant must also report to FEMA:
  - (i) the name of the company;
  - (ii) the geographical location covered by the contract; and,
  - (iii) the price per cubic yard of debris removed (standard unit of measurement for price?)
  - (iv) **Penalties for nonperformance**
  - (v) **Method of procurement – cooperative purchasing agreement? Competitive solicitation?**

### **Post Disaster Surveying of Recipients**

1. Require FEMA, within a reasonable time after a major or emergency disaster declaration event, to survey all PA and Army Corps recipients for debris removal on their experience with the debris removal process during the event, including:
  - a. Who completed the work?
  - b. What price per cubic yard was paid?
  - c. Any discrepancies in contracting or working with the contractor?
  - d. Any other issues of note? **Timeframe to remove debris start to finish; challenges that caused delays; concerns expressed by citizenry that were unable to be addressed**
2. FEMA shall collect and analyze this information to identify any trends or discrepancies and make recommendations in coordination with the FEMA OIG.

## **(B) Increase Oversight of Debris Removal (per OIG findings)**

**Decreasing the improper use of PA assistance by revising the conditions of oversight and verification for debris removal as a condition of reimbursement.**

### **Requirements for Verification and Debris Removal Monitoring Contracts**

1. Verification Methods - The Administrator shall, on an annual basis and in consultation with the advisory working group, develop and publish a list of approved verification methods, which may include-
  - (i) a digital photograph of each load of debris to validate load tickets;
  - (ii) a digital photograph of each truck used to haul debris to verify truck certifications; and
  - (iii) **(SEE BELOW RECOMMENDATION INCORPORATED HERE)** measurements of debris piles and mulch piles for comparison and verification against a photograph, used only in limited circumstances, when no other methods are feasible for the debris in question; and,

**Concern:** Pile measurements should be a last resort. Particularly when comparing a pile measurement against a two-dimensional photograph, this method of measurement leaves a large margin for error due to its lack of ability to account for the following:

1. **Voids:** empty or low-lying areas within the middle of a pile that are not visible to the eye or a camera, potentially large and significant.
2. **Shape:** difficulty in capturing an accurate measurement for piles of odd shapes, particularly with inconsistent height and/or voids.

3. **Origin of debris:** without individual load tickets and corresponding load calls of certified trucks/containers, it is possible the pile would include debris from other sources (ineligible debris, commercial debris, private property debris, debris not related to storm damage, debris from other jurisdictions, etc.)
4. **Fraud potential:** It is possible for subcontractors or applicants to take advantage of the variables above, among others. If assumed reasonable as a primary method of measuring debris, contractors may attempt to convince applicants that this method is most appropriate as a means of avoiding traditional monitoring.

While pile measurements may be necessary if monitoring does not occur or is not able to occur at the time of hauling (i.e. emergency hauling by a state or local government immediately following an event with debris taken to a debris management site), it should be limited and not a primary means of determining debris volumes. Likewise, due to the factors above, a pile measurement should not be used to override load calls made by monitors observing individual loads in certified containers.

- ii. **Recommendation:** State that this should be 'used only in limited circumstances, when no other methods are feasible for the debris in question'.
- iii. (SEE BELOW RECOMMENDATION INCORPORATED HERE) -- other proven technological advances that allow for verification of debris operations at the individual load level, as reviewed and approved by FEMA prior to being implemented in federally funded project operations.

**Concern:** We have received demonstrations of load scanners and other technology advertised for this service. There is the potential for a firm to sell such a solution to a community or contractor without proving its capabilities and with FEMA unaware that such a solution is being utilized in the field. So far, these technologies have proven unreliable and inaccurate, as they are not able to properly account for:

1. Truck modifications
2. Voids/improper loading of material
3. Ineligible debris types
4. Other variables able to be observed by on-site monitors making physical observations of loads and contents.

- iv. **Recommendation:** Change to; 'Other proven technological advances that allow for verification of debris operations at the individual load level, as reviewed and approved by FEMA prior to being implemented in federally funded project operations.'

2. **Monitoring Contracts** - The Administrator shall require that any entity applying for debris removal assistance under the public assistance grant program shall, as part of the assistance application, enter into a debris removal monitoring contract to conduct oversight and verification of debris removal by contractors, which shall require that one of the verification methods approved by the Administrator be used to conduct the oversight and verification.
3. **Penalties for Inaccurate Accounting of Debris Removal Amounts** - Any discrepancy between the reported amount of debris collected by a contractor and the verified amount, as determined using an approved verification method above, shall incur a penalty at 2 times the reimbursement rate of the documented discrepancy.

- v. **Concern:** This penalty reaches far beyond the current procedures and those proposed in this document. With monitoring in place and FEMA's requirements and expectations added to published policy, a PA applicant should only be requesting reimbursement of

properly documented debris removal activity. Under the current program, if such documentation is not provided the Applicant will not receive any federal funding for the work – even if they paid for such a service. Therefore, an impacted community is currently subject to covering 100% of the recovery cost for work not meeting FEMA's published requirements. This item places an unreasonable burden on impacted communities, one in which they may be forced not only to pay the contractor in full, but also to incur a financial penalty resulting in a potential cost of three times the original amount. Such financial risk would likely cause a rise in contract pricing and increase administrative costs related to review and appeals of FEMA determinations.

- vi. **Recommendation:** We feel strongly that this should be removed from the document.

1. With proper monitoring in place, impacted communities should not submit such costs to FEMA. Assuming FEMA intends to use photographs and load calls as a means of substantiating that work was properly completed, and not to develop cases to impose penalties for minor subjective discrepancies, the universal requirement for monitoring and proper documentation should serve to limit the federal government's financial risk of incurring unreasonable or undocumented costs.

### Guidance and Training

1. Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the advisory working group shall develop and implement guidance and procedures, including clear and unambiguous rules, with respect to the oversight and procurement of debris removal contracts entered into under the public assistance grant program, including: guidance for State and local debris monitors regarding debris removal operations, debris operations oversight, and contractor oversight, including contractor monitoring.
2. The Administrator shall provide training on appropriate debris removal guidance and procedures and procurement methods, developed in consultation with the advisory working group, to-
  - (i) Agency debris monitors;
  - (ii) appropriate State and private entities; and

### (C) Advisory Working Group

1. The Administrator shall establish an advisory working group to encourage and foster collaborative efforts among individuals and entities engaged in disaster recovery.
  - a. Membership - The advisory working group established shall be comprised of-
    - (i) debris services contractors;
    - (ii) emergency management associations
    - (iii) representatives of States and units of local government;
    - (iv) representatives of the federal government;
    - (v) academicians; and,
    - (vi) other subject matter experts.